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**UNITED STATES BANKRUPTCY COURT**

**CENTRAL DISTRICT OF CALIFORNIA - SANTA ANA DIVISION**

In re:

JAMIE LYNN GALLIAN,

Debtor.

Case No. 8:21-bk-11710-SC

Chapter 7

Adv. No. 8:21-ap-01095-SC

**MOTION TO CONTINUE PRE-TRIAL  
CONFERENCE**

THE HUNTINGTON BEACH GABLES  
HOMEOWNERS ASSOCIATION, a California  
nonprofit mutual benefit corporation,

Plaintiff,

vs.

JAMIE L GALLIAN, an individual,

Defendants.

Pre-Trial Conference

Hearing Date: December 13, 2022

Time: 1:30 p.m.

Courtroom: 5C

**TO THE HONORABLE SCOTT C. CLARKSON, UNITED STATES  
BANKRUPTCY JUDGE, AND ALL PARTIES ENTITLED TO NOTICE:**

This Motion to Continue Pre-Trial Conference (the “Motion”) is filed by Plaintiff, The Huntington Beach Gables Homeowners Association (“Plaintiff”). This Motion is made with reference to the following recitals:

**RECITALS**

1. On or about July 9, 2021, Jamie Lynn Gallian (“Debtor”) filed a voluntary petition under Chapter 7 of the Bankruptcy Code.

2. On October 18, 2021, Plaintiff filed a Complaint (the “Complaint”) to (1) Set Aside Voidable Transfer; (2) for Declaratory Relief Establishing Validity of Lien, (3) to Object to Discharge Under Section 523(a)(2) (Actual Fraud), and (4) to Object to Discharge Under Section 727(a)(5), initiating the above captioned adversary proceeding on October 18, 2021 (the “Adversary Proceeding”).

3. Defendant Randall Nickel was named as a defendant in only Claim 1 for Relief as the transferee of a fraudulent transfer for the real property located at 4476 Alderport Drive, Unit 53, Huntington Beach, California 92649 (“Unit 53”), which is the predicate question for Plaintiff’s Claim 3 against Debtor under *Husky Intern. Electronics, Inc. v. Ritz*, 136 S. Ct. 158 (2016), in which the Supreme Court held that a fraudulent transfer is fraud within the meaning of Section 523(a)(2) of the Bankruptcy Code.

4. On October 28, 2021, Debtor filed her answer to the Complaint. (Docket No. 4.)

5. On October 28, 2021, Debtor filed multiple amended answers to the Complaint (Docket Nos. 5, 6, and 7.)

6. On November 16, 2021, Defendant Randall Nickel filed a Motion to Dismiss the Complaint as to himself for lack of jurisdiction. (Docket No. 9.)

7. On January 27, 2022, the Court granted Mr. Nickel’s motion to dismiss for lack of jurisdiction on the ground, at that time, that only the Chapter 7 Trustee may seek to avoid a fraudulent transfer of Unit 53. (Docket No. 32, at 2.)

1           8.       On August 25, 2022, the Chapter 7 Trustee in the Main Bankruptcy Case has  
2 filed his Notice of Intent to Abandon Estate's Interest in Claims against Randall L. Nickel  
3 Relating to the October 2018 Transfer of the Debtor's Interest in the Property Commonly  
4 Known as 4476 Alderpoint Drive, #53, Huntington Beach, California 92649 (Main Bankruptcy  
5 Case, Docket No. 201) ("Notice of Abandonment"). On September 23, 2022, the Court entered  
6 its Order Authorizing Trustee's Abandonment of Estate's interest in claims against Randall L.  
7 Nickel relating to the October 2018 Transfer of the Property commonly known as 4476  
8 Alderport Dr. #53, Huntington Beach, California 92649.

9           9.       Since that time, the HOA has been diligently seeking to determine whether to seek to  
10 amend its complaint to re-include Mr. Nickel or otherwise settle claims by and between the  
11 HOA and Mr. Nickel. Unfortunately, Mr. Nickel has rebuffed all settlement communications.

12           10. On November 9, 2022, Debtor filed a Notice of Motion to Dismiss this Adversary  
13 Proceeding (Docket No. 63) with a requested hearing date of January 10, 2023 at 1:30 p.m.  
14 Given that it would be double work for the HOA to seek to amend a complaint that Debtor has  
15 asserted under Rule 9011 must be dismissed, the HOA respectfully requested that the pretrial  
16 conference be continued to a date in March 2023 to determine next steps after the dismissal  
17 hearing as well as the two other pending Section 727 actions.

18           11. In *Jasso v. Gallian, et. al*, Adv. No. 8:21-ap-01096-SC, the Court ordered that any  
19 motion for default judgment by Jasso must be heard and determined by January 12, 2023. (See  
20 *Jasso v. Gallian, et. al*, Adv. No. 8:21-ap-01096-SC, Docket No. 57.) If Jasso is successful in  
21 her Section 727 claims, then the instant adversary proceeding will be rendered moot.

22           12. Likewise, in *Houser Bros. Co. v. Gallian*, Adv. No. 8:21-ap-01097-SC, the Court  
23 will be conducting a trial beginning February 23, 2023 at 9:30 a.m. on, among other issues,  
24 whether Debtor transferred or concealed property with the intent to hinder, delay, or defraud her  
25 creditors. If the Houser Bros. Co. is successful in their Section 727(a)(2)(A) claim, this pending  
26 adversary proceeding will also effectively be moot.

27           13.       In the interest of efficiency for all parties and the Court, Plaintiff would like to  
28 continue the pre-trial conference to a date in March 2023 or as the Court deems appropriate so

1 that the Plaintiff may understand whether its complaint is subject to dismissal and whether this  
2 entire action may be rendered moot in the Jasso and House Bros. Co. matters.

3 14. The Motion does not constitute a waiver of any rights.

4 **WHEREFORE**, based on the foregoing recitals, Plaintiff requests the hearing on the Pre-  
5 Trial Conference to be continued to a date in March 2023 or as the Court deems appropriate.

6 Dated: November 28, 2022

7 Respectfully submitted,

8 **GOE FORSYTHE & HODGES LLP**

9 By: /s/ Brandon J. Iskander

10 Robert P. Goe

11 Brandon J. Iskander

12 Attorneys for Huntington Beach Gables  
13 Homeowners Association  
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## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: 17701 Cowan Avenue, Suite 210, Building D, Irvine, CA 92614

A true and correct copy of the foregoing document entitled (*specify*): **MOTION TO CONTINUE PRE-TRIAL CONFERENCE** will be served or was served (**a**) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (**b**) in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) November 28, 2022, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- **Robert P Goe** kmurphy@goeforlaw.com, rgoe@goeforlaw.com;goeforecf@gmail.com
- **Jeffrey I Golden (TR)** lwerner@go2.law, jig@trustesolutions.net;kadele@go2.law
- **Brandon J Iskander** biskander@goeforlaw.com, kmurphy@goeforlaw.com
- **Mark A Mellor** mail@mellorlawfirm.com, mellormr79158@notify.bestcase.com
- **United States Trustee (SA)** ustpregion16.sa.ecf@usdoj.gov

**2. SERVED BY UNITED STATES MAIL:**

On (*date*) November 28, 2022, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows: Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

**Jamie Lynn Gallian**  
16222 Monterey Ln Unit 376  
Huntington Beach, CA 92649

**Michael D Poole**  
Feldsott & Lee  
23161 Mill Creek Dr Ste 300  
Laguna Hills, CA 92653

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL:**

(*state the method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) November 28, 2022, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows: Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

- The Honorable Scott Clarkson, USBC, 411 West Fourth Street, Santa Ana, CA 92701
- (SUSPENDED DUE TO COVID-19 PROTOCOLS)

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

November 28, 2022  
*Date*

Kerry A. Murphy  
*Printed Name*

/s/Kerry A. Murphy  
*Signature*